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April 7, 2020

By ECF

Hon. Kathleen A. Tomlinson
United States Magistrate Judge
United States District Court
for the Eastern District of New York
Alfonse M. D'Amato Federal Building
100 Federal Plaza
Central Islip, NY 11722

Re: Joseph Jackson v. Nassau County et al., Docket No. 18-cv-3007 (JS) (AKT)
Our File No.: 12473.00014

Dear Judge Tomlinson:

Wilson Elser represents the County Defendants in the referenced action. We are writing to amend, in part, the County Defendants' Rule 37.1 motion filed on April 7, 2020 (D.E. 280).

In particular, in Part I (D) of the motion, we stated that plaintiff's counsel had neither produced a privilege log nor confirmed that plaintiff did not possess any privileged documents responsive to the County Defendants' Document Demands 1-9 and 15. While there was no reference to this in plaintiff's supplemental discovery response dated April 3, 2020, in fact in the email forwarding that response, plaintiff's counsel wrote: "I can also confirm that plaintiff is not withholding any documents on the basis of privilege." In preparing the Rule 37.1 motion, we focused on the formal discovery response and overlooked this statement which was contained in the email.

Accordingly, the County Defendants withdraw Part I(D) of their Rule 37.1 motion, but would request that plaintiff provide an affidavit to the effect that he is not in possession of any privileged documents responsive to Demands 1-9 and 15.

We note further that plaintiff's counsel has taken issue with Part I(A), (B), (C) of our April 6, 2020 letter. Those parts addressed issues raised by plaintiff's supplemental discovery response which was served via email on late Friday, April 3, 2020 – specifically, whether plaintiff's interrogatory responses should be under oath and whether full-identifying information should be provided for the persons identified in the responses. Given the timing of the plaintiff's supplemental response and the Monday deadline, we did not meet and confer with plaintiff's counsel regarding these issues before filing the letter. We believe this was made clear in the April 6 letter; but perhaps the point could have been made more clearly. In any event, we reached out to plaintiff's counsel today to see if there was consensus on these issues, but the response was to demand that we withdraw Parts I(A), (B), (C) of the motion as well. As we believe the County Defendants are entitled to basic compliance with the Local Rules and Federal Rules, we respectfully decline to do so.

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Respectfully submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

A handwritten signature in black ink, appearing to read 'Lalit K. Loomba', written over a horizontal line.

Lalit K. Loomba

Cc: Counsel of Record (via ECF)